

Appl. No. 09/745,525  
Dated February 1, 2005  
Reply to Office Action of June 4, 2004

Remarks:

Claims 1-46 are pending in this application.

The Examiner has rejected claims 1-3, 7-10, 32-37 and 40-42 under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,484,030 to Gavrilovich et al. (hereinafter "Gavrilovich"). The applicant respectfully disagrees.

In order to establish that any claim is obvious the Examiner must identify 1) all of the claimed elements in the prior art; 2) a reason or motivation to modify or combine these elements to arrive at the claimed invention; and 3) a reasonably likelihood of success (See M.P.E.P. 2141). It is submitted that the Examiner has failed to establish at least the first of these conditions.

Claim 1 requires initializing a first degree of adaptation "if said utilization of said trunk exceeds a first threshold." It has been submitted that, in Gavrilovich, a functional circuit (which is equated to trunk in col. 1, lines 24-28) may be identified as defective under one of three conditions, none of which relate to utilization of a functional circuit exceeding a threshold. In particular, from col. 3, lines 7-16:

*Advantageously, if the total number of attempts for any one functional circuit is substantially higher than that of others in the group, or if the number of unacknowledged communications on any one functional circuit is substantially higher than that of others in the group, or if the percent of usage of any one functional circuit is substantially less than that of other functional circuits in the group with a comparable number of total attempts, that functional circuit is identified as defective.*

and col. 3, lines 35-38:

*Advantageously, a trunk which shows a high attempt rate, or high unacknowledged communication rate, or low percent of usage compared with other trunks having a similar attempt rate*

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*is identified as defective.*

The Examiner contends that the high attempt count is equivalent to the claimed exceeding of a threshold. The applicant respectfully disagrees. It may be shown that the attempt count of Gavrilovich triggers identification of a given functional circuit as likely to be defective when the attempt count is much higher than that of other members of a group of functional circuits (see col. 2, lines 58-61). Clearly, a given attempt count is not absolutely "high", i.e., the given attempt count is not compared to a threshold, but, instead, the given attempt count is relatively "high", i.e., the given attempt count is compared to attempt counts of other members of a group.

Advantageously, the method of claim 1 allows for the prevention of the establishment of new connections on a fully-functioning trunk (see claim 3) to adaptively ease the over-utilization of the fully-functioning trunk. In contrast, it appears that Gavrilovich is concerned with identifying defective trunks.

It is submitted that all the elements claimed in claim 1 are not found in Gavrilovich. Withdrawal of the rejection of independent claim 1 and claims 2-31, dependent, either directly or indirectly, on claim 1, is therefore requested.

Furthermore, as independent claims 32 and 33 claim a path administrator for carrying out the method of claim 1 and independent claim 40 claims a computer readable medium containing instructions allowing a processor to carry out the method of claim 1, it is submitted that Gavrilovich does not disclose all of the elements of independent claims 32, 33 or 40. Without such a disclosure, Gavrilovich cannot render obvious independent claims 32, 33 and 40. Withdrawal of the rejection of independent claims 32, 33 and 40, and claims 34-37, 41 and 42 dependent thereon, in view of Gavrilovich is therefore respectfully requested.

The Examiner has rejected independent claims 1, 32, 33 and 40 under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,669,113 to Ash et al. (hereinafter "Ash"). The applicant respectfully disagrees.

In brief, the method of claim 1 requires "receiving an indication of a utilization of a trunk" and taking an action "if said utilization of said trunk exceeds a first threshold"

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(emphasis added). It should be noted that the method of claim 1 is performed at a switch, which has local information about the utilization of a particular trunk. In contrast, the adaptation of a network to various traffic patterns is performed in Ash at an integrated network controller 100 that receives network information from switches in the network 411. Such network information includes a number of idle trunks in the network 411, a number of idle trunks in each link 11, 12, and a blocking level experienced by each originating switch – terminating switch (OS-TS) pair.

The Examiner has indicated that the process, in Ash, of reserving trunks on a link, which process is based on traffic intensity between the switches directly connected to the link and which process is performed only when a high blocking indicator exceeds a threshold, reads on “if said utilization of said trunk exceeds a first threshold, initializing a first degree of adaptation”. However, it is respectfully submitted that traffic intensity between the switches is measured as the number of idle trunks in the link (col. 13, lines 42-45) and not utilization of a single trunk, as required by claim 1. It is further submitted that the high blocking indicator (i.e., the value that is compared to a threshold) is related to a number of calls that are blocked over a time interval for an OS-TS pair (col. 13, lines 12-21). As such, the high blocking indicator is not a measure of the utilization of a single trunk as is required by claim 1 to be compared to a threshold.

The Examiner contends that, in the Ash adaptation network, it would be necessary to measure the utilization of trunks in order to reserve more trunks in the event of traffic intensity. However, the cited passage of Ash (col. 13, line 50 to col. 14, line 10) indicates that where the HB(K) level of a given link (trunk group) exceeds 1, i.e., in the event of traffic intensity between the offices directly connected to the given link, the process of block 34 reserves trunks in the given link. The number of trunks reserved in the given link is not related to traffic intensity, but to the Actual Size of the Trunk Group. For example, if the given link has 203 trunks, 4 trunks will be reserved. It is respectfully submitted that, along with there being no disclosure of the measuring of the utilization of a single trunk, there is no necessity to measure the utilization of trunks in order to reserve more trunks in the event of traffic intensity.

It is submitted, then, that Ash does not disclose all of the elements of

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independent claim 1. Furthermore, as independent claims 32 and 33 cite a path administrator for carrying out the method of claim 1 and independent claim 40 cites a computer readable medium containing instructions allowing a processor to carry out the method of claim 1, it is submitted that Ash does not disclose all of the elements of independent claims 32, 33 or 40. Without such a disclosure, Ash cannot render obvious independent claims 1, 32, 33 and 40. Withdrawal of the rejection of independent claims 1, 32, 33 and 40 in view of Ash is therefore respectfully requested.

The Examiner has rejected claims 4-6, 14-29 and 38 under 35 U.S.C. 103(a) as being unpatentable over Gavrilovich in view of Ash. The applicant respectfully disagrees.

As outlined hereinbefore, it is submitted that neither Gavrilovich nor Ash disclose all the elements of independent claims 1, 33 and 40 on which claims 4-6, 14-29 and 38 depend, either directly or indirectly. The lack of disclosure of all the elements of claims 1, 33 and 40 means that neither Gavrilovich, nor Ash, nor a combination of Gavrilovich and Ash can render claims 4-6, 14-29 and 38 obvious. Withdrawal of the rejection of claims 4-6, 14-29 and 38 over Gavrilovich in view of Ash is therefore respectfully requested.

The Examiner has rejected claims 11-13, 30, 31, 38 and 43-46 under 35 U.S.C. 103(a) as being unpatentable over Gavrilovich in view of U.S Patent No. 6,377,677 to Ackerley et al. (hereinafter "Ackerley"). The applicant respectfully disagrees.

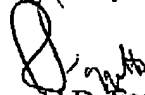
As outlined hereinbefore, it is submitted that Gavrilovich does not disclose all the elements of independent claims 1, 33 and 40 on which claims 11-13, 30, 31, 38 and 43-46 depend, either directly or indirectly. The Examiner appears to merely cite Ackerley to illustrate that sending a congestion notification to a source of a misbehaved connection would have been obvious to one skilled in the art. However, the lack of disclosure of all the elements of independent claims 1, 33 and 40 means that neither Gavrilovich, nor Ackerley, nor a combination of Gavrilovich and Ackerley can render dependent claims 11-13, 30, 31, 38 and 43-46 obvious. Withdrawal of the rejection of dependent claims 11-13, 30, 31, 38 and 43-46 over Ash in view of Ackerley is therefore respectfully requested.

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Applicant respectfully requests that a timely Notice of Allowance be issued in

the case.

Respectfully submitted,



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February 1, 2005  
91436-286  
RDF/CCC